

FULTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

**THURSDAY
AUGUST 23, 2012
8:00 A.M.**

PLANNING DEPARTMENT CONFERENCE ROOM

MEETING NOTES

PRESENT:

JOE GILLIS, CHAIRMAN
LEN HOUSE, VICE CHAIRMAN
FRAN REED, TREASURER
TODD RULISON, SECRETARY
WILLIAM SULLIVAN, MEMBER
ARLENE M. SITTERLY, MEMBER
JOSEPH SEMIONE, MEMBER
JAMES MRAZ, IDA EXECUTIVE DIRECTOR
KARA LAIS, FITZGERALD, MORRIS, BAKER, FIRTH, P.C.
WILLIAM WALDRON, LIASON, ECONOMIC DEVELOPMENT COMMITTEE

I. MINUTES FROM JULY 19, 2012 MEETING:

MOTION : To approve as presented.
MADE BY : Len House
SECONDED : Fran Reed
VOTE : Unanimous

II. BUDGET REPORT:

MOTION :. To approve as presented.
MADE BY : Joseph Semione
SECONDED : Len House
VOTE : Unanimous

III. COMMITTEE REPORTS:

A. Nominating Committee:

- No report.

B. Audit Committee:

- No report.

C. Governance Committee:

- Governance Committee met on August 7, 2012 to discuss:
 - Mission Statement
 - Uniform Tax Exemption Policy
- Governance Committee recommendations are outlined later in Agenda.

D. Finance Committee:

- No report.

IV. OLD BUSINESS:

A. 1988 Incubator Building Project in Crossroads Industrial Park:

- No new information to report.

B. Tryon Technology Park and Incubator Center Project:

1. SEQR:

a. Background:

- SEQR review must be conducted on transferring ownership of the former Tryon Campus from New York State to IDA.
- OGS was originally going to conduct this coordinated SEQR review.
- OGS recently advised the IDA that it prefers to have the IDA conduct this SEQR review.

b. Proposed Action:

- The proposed action is just the transfer of 515 acres of land, 40+/- buildings and infrastructure from the State of New York to the IDA.
- Once the transfer occurs, the IDA will then work with Fulton County to prepare a Site Plan for creating shovel-ready sites.
- Once the Site Plan is developed, the IDA will conduct another SEQR review on the implementation of that plan. This is a Permissible Segmentation of SEQR.

- c. Classifying Proposed Action:
 - The proposed action should be classified as a Type I Action since it will involve the sale or transfer of more than 10 acres of land.
- d. Involved Agencies:
 - Fulton County Industrial Development Agency
 - Empire State Development
 - NYS Office of General Services
- e. Review Environmental Assessment Form (EAF):
 - 1) Part I:
 - Part I has been completed and distributed to IDA members.
 - 2) Part II:
 - Part II has been completed and distributed to IDA members.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda regarding the need to conduct a SEQR review on the proposed transfer of the former Tryon Campus from New York State to the IDA. He stated that the focus of this SEQR review will be just on the transfer of the land. A second SEQR review would be conducted by the IDA on the proposed Site Plan that will eventually be developed for the Tryon Technology Park and Incubator Center.

Jim Mraz reviewed the Part I Environmental Assessment Form (EAF) that had been previously distributed to IDA members. He asked if there were any questions regarding the EAF. There were none. He also asked if there were any questions regarding the Part II Environmental Assessment Form that had been prepared and distributed previously to IDA members. There were none.

IDA ACTION:

MOTION: To classify the proposed action as a Type I Action under SEQR, to propose that the IDA serve as Lead Agency for the purpose of conducting a coordinated SEQR review and to authorize the Executive Director to distribute the EAF Part I to all Involved Agencies asking if they have any comments on the proposed action and whether they consent to the IDA serving as Lead Agency with said letter requesting that each Involved Agency respond to the IDA in writing by noon, September 10, 2012.

MADE BY: Fran Reed

SECONDED: Arlene Sitterly

VOTE: Unanimous

C. CG Roxane Water Bottling Plant Project:

1. Background:

- IDA received and reviewed at its June 19, 2012 meeting a Project Application from CG Roxane, LLC of San Francisco, CA.
- CG Roxane's Application requests that CG Roxane enter into a straight lease arrangement with the IDA.

- The IDA would take title to the land and improvements on the land and then enter into a Lease Agreement with CG Roxane to lease the land and improvements back to the Company to operate.
- CG Roxane's Application requested two (2) tax exemptions from the IDA:
 - 1) 485-b real property tax exemption.
 - 2) Sales tax exemption.
- At its July 19, 2012 meeting, the IDA Board:
 - Approved an Inducement Agreement.
 - Authorized the Chairman to execute a Preliminary Agreement.
 - Authorized the Chairman to execute a Sales Tax Exemption letter and filing of an ST-60 form with the NYS Department of Taxation and Finance.
- The Preliminary Agreement has been executed.
- The Sale Tax Exemption letters have been executed and forwarded to CG Roxane.
- The ST-60 form has been executed and filed with New York State.

2. Lease Agreement:

a. Summary of Key Terms:

Term	:	10 years
Conveyance of	:	CG Roxane will convey Project Facility to IDA for the term of the lease.
Agent	:	IDA appoints CG Roxane as Agent to construct, operate and maintain Project Facility.
Insurance	:	CG Roxane shall insure Project Facility.
End of Lease	:	IDA conveys title of Project Facility back to Company.
Administrative Fee	:	Includes provision for CG Roxane to pay balance of fee by July 30, 2013.

b. Review of Lease by Kara Lais, IDA Attorney.

IDA DISCUSSION: Jim Mraz reviewed the key terms of the Lease Agreement as identified in the Agenda. Kara Lais added that she has discussed the draft Lease Agreement with Page Beykpour, Corporate Counsel for CG Roxane. She stated that the IDA is still waiting for survey and deed descriptions from CG Roxane. Once these are received and approved, a closing would be scheduled. The date of the closing would then be inserted into the Lease as the starting date for the lease.

Jim Mraz stated that CG Roxane will pay 50% of the IDA's administrative fee at closing with the other 50% due by July 30, 2013. He stated it was the requirement to pay the balance of the administration fee was included into the Lease Agreement. It was worded as such that if this administrative fee was not paid, it would constitute a default under the Lease.

3. PILOT Agreement:

a. Summary of Key Terms:

Term	:	10 years: same as Lease
Tax Exemption	:	485-b
Recapture	:	Recapture provision included
Fee	:	\$400/year
Default	:	\$1,000 payment per each default and payment of legal fees

b. Review of PILOT by Kara Lais, IDA Attorney.

IDA DISCUSSION: Kara Lais reviewed the information contained on the Agenda regarding the key terms for the proposed PILOT Agreement. Joe Gillis asked if CG Roxane could apply for another PILOT if it constructed a new building on the project site. Kara Lais stated, "Yes." Jim Mraz asked if there were any further questions regarding the Lease or PILOT Agreements. There were none.

4. Closing Resolution:

- Closing Resolution will:
 - Approve Lease and authorize Chairman to execute it.
 - Approve PILOT and authorize Chairman to execute it.

IDA DISCUSSION: Kara Lais reviewed the form and content of the Closing Resolution. She asked if there were any questions regarding the Closing Resolution. There were none.

IDA ACTION:

MOTION: To approve a Closing Resolution authorizing the execution and delivery by the IDA of a Lease, PILOT and related documents in connection with the CG Roxane Project. (Project No. 1701-12-01A)

MADE BY: Todd Rulison
SECONDED: Joe Gillis
VOTE: Unanimous

D. IDA's Mission Statement:

1. Notice from Authority Budget Office (ABO):
 - On June 7, 2012, the ABO notified the IDA by e-mail that the IDA's current Mission Statement does not adequately meet the criteria described in Policy Guidance 10-02 "Public Authority Mission Statements and Measurement Reports".
 - The ABO has requested that the IDA Board approve a revised Mission Statement and submit it to them by October 1, 2012.

2. IDA's Current Mission Statement:

"To promote and develop the retention of existing and creation of new job opportunities and the expansion of local property tax base by acquiring, owning, developing, managing and selling land and buildings and providing financing and tax incentives as authorized by New York State."

3. Governance Committee:

- At the July 19, 2012 IDA meeting, Board members agreed to have the Governance Committee meet and recommend revisions to the Mission Statement to address the ABO's comments.
- Governance Committee met on August 8, 2012. Based upon their review and discussion, Committee members recommend the IDA Board adopt the following new Mission Statement:

"The IDA's mission is to create and promote economic growth and prosperity for both residents and entrepreneurs in Fulton County. The IDA's role in Fulton County's Economic Development Program is to develop and maintain an inventory of shovel-ready sites for new and expanding businesses, offer financial incentives, as may be required, to encourage the creation of new and retention of existing jobs and expand the County's tax base. In doing so, the IDA strives to make Fulton County a desirable place to live and do business."

IDA DISCUSSION: Jim Mraz stated that the Governance Committee met recently and discussed the IDA's current Mission Statement. He stated that he presented members of the Governance Committee with numerous examples of other IDA Mission Statements including the ones recommended be considered by the Authority Budget Office. He stated the Governance Committee did an excellent job in discussing and critiquing the IDA's existing Mission Statement. After much discussion, the Governance Committee unanimously recommended that the IDA Board approve the Mission Statement as developed by the Governance Committee as shown in the Agenda. Jim Mraz asked if there was any comments regarding the proposed Mission Statement. There were no comments or questions.

IDA ACTION:

MOTION: To adopt the revised Mission Statement as recommended by the Governance Committee and authorize the Executive Director to submit it to the Authority Budget Office.

MADE BY: Arlene Sitterly
SECONDED: Joseph Semione
VOTE: Unanimous

V. NEW BUSINESS:

A. Uniform Tax Exemption Policy:

1. Background:

- IDA adopted initial Uniform Tax Exemption Policy (UTEP) in 1994.
- In 1999, the State Legislature passed a law requiring all IDA's to readopt their UTEP. The IDA readopted its UTEP in April, 1999.
- No changes have been made to the IDA's UTEP since 1999.

2. Key Provision of Current UTEP:

a. Tax Exemptions available from IDA:

- Real Property (PILOT)
- Sales Tax
- Mortgage Recording

b. In order to receive a Real Property (PILOT), Sales Tax or Mortgage Recording Tax Exemption, a project shall create or retain a significant number of jobs.

c. For Real Property Tax Exemptions, three (3) PILOT models are available:

- 485-b
- 485-e
- Hybrid

d. The UTEP contains a Policy Deviation provision which allows the IDA to deviate from the Policy after considering several criteria.

e. The UTEP does not contain a Recapture provision.

f. Fees:

- \$300 : Application Fee
- \$100 : Annual Maintenance Fee
- Legal Fees : Project Sponsor pays all IDA Counsel fees and costs.

3. Governance Committee:

a. Background:

- Governance Committee met on 8/8/12 to review the proposed new UTEP.
- Governance Committee recommends that the revised UTEP described in Section (b) below be approved.

b. Key Provisions of Proposed UTEP:

1) Tax Exemptions available from IDA:

- Real Property Tax (PILOT)
- Sales Tax
- Mortgage Recording Tax
- Real Estate Transfer Tax

2) In order to receive a Real Property (PILOT), Sales Tax or Mortgage Recording Tax Exemption, a project shall create or retain a significant number of jobs.

3) For Real Property Tax Exemptions, one (1) PILOT model would be available:

- 485-b

Year 1	:	50% Exemption
Year 2	:	45% Exemption
Year 3	:	40% Exemption
Year 4	:	35% Exemption
Year 5	:	30% Exemption
Year 6	:	25% Exemption
Year 7	:	20% Exemption
Year 8	:	15% Exemption
Year 9	:	10% Exemption
Year 10	:	5% Exemption
Year 11+	:	0% Exemption

- 4) The proposed UTEP contains a Policy Deviation provision which would allow the IDA to deviate from the Policy after considering several criteria.
- 5) The proposed UTEP contains a Recapture provision for Real Property Tax Exemptions. The IDA Board would have the option to include a Recapture provision into a PILOT. If included, the Recapture provision would recapture real estate tax exemptions as follows:

Years 1-5	:	100% of tax exemption
Years 6-7	:	75% of tax exemption
Years 8-9	:	50% of tax exemption
Year 10	:	25% of tax exemption
Year 11+	:	0% of tax exemption

6) Fees:

- Annual Administrative : \$400
- Legal Fees : Project Sponsor pays all IDA Counsel fees and costs.

- 7) Penalty for Default – If Company defaults, must pay fee of \$1,000 and attorney fees.
- 8) Early Termination Fee – If Company pursues an early termination of a PILOT, the Company would pay the IDA a fee of \$1,000 for each year the PILOT was in effect.

IDA DISCUSSION: Jim Mraz reviewed the information on the Agenda regarding the IDA's current UTEP and the UTEP recommended by the Governance Committee. He stated the Governance Committee met and reviewed Uniform Tax Exemption Policies from a number of other IDA's in the region. Based upon its review of these other policies, as well as the IDA's current policy, the Governance Committee came up with the recommendations as presented in the Agenda. Jim Mraz stated that consideration was given to a Recapture Provision that would have required the repayment of 100% of tax exemptions granted for years 1-10. He stated, however, it was a majority opinion of the Committee to recommend the graduated scale as shown on the Agenda. Jim Mraz stated that the IDA Board would have the option of including the Recapture Provision into a PILOT. He stated the proposed policy as recommended by the Governance Committee would not require a Recapture Provision included in all PILOT Agreements.

After additional discussion, Jim Mraz asked if there were any further questions regarding the Governance Committee's recommended changes to the IDA's UTEP. There were none. Jim Mraz asked IDA members if they would prefer to act on the Committee's recommendation now or wait until a later meeting. All present indicated that they would prefer to vote on the Committee's recommendations now.

IDA ACTION:

MOTION: To accept the proposed changes to the IDA's Uniform Tax Exemption Policy as recommended by the Governance Committee.

MADE BY: Fran Reed
SECONDED: Joseph Gillis
VOTE: Unanimous

B. Property Insurance:

- IDA has received the annual invoice from Fulmont Mutual Insurance Company for the Property Liability Insurance the IDA carries for the vacant lands it owns.
- Total Premium: \$847.60
- This is a budgeted expense.

IDA ACTION:

MOTION: To authorize a payment of \$847.60 to Fulmont Mutual Insurance.

MADE BY: Len House
SECONDED: Arlene Sitterly
VOTE: Unanimous

VI. OTHER BUSINESS:

A. IDA Property on West Side of NYS Route 30A:

1. Background:

- IDA owns a vacant building on the west side of NYS Route 30A between Opportunity Drive and Enterprise Drive.
- In order for this building to be considered for demolition, an asbestos containing materials survey must be conducted to verify what, if any asbestos containing materials may exist in the building.

2. Proposal:

- C.T. Male was asked to provide a cost proposal to conduct an asbestos containing materials survey.
- C.T. Male has submitted a cost proposal to the IDA. (See handout.)
- Fees:
 - \$675 : Lump sum fee to prepare and print report.
 - \$850 : Estimated laboratory fees: Actual cost will vary depending upon the exact number of different materials that will have to be tested.
 - Mileage : Billed at cost.
 - Total Estimated Cost : \$1,525 + mileage

IDA DISCUSSION: Jim Mraz stated that, at the recent Governance Committee, it was suggested that the IDA consider demolishing the building it owns on the west side of NYS Route 30A by the Johnstown Industrial Park. Jim Mraz advised that in order for that to occur, an Asbestos Containing Materials Survey would have to be conducted to verify what, if any, asbestos containing materials may exist in the building. He was asked to obtain a cost proposal to perform this work. Jim Mraz stated that he contacted C.T. Male to provide a cost proposal. He distributed a copy of C.T. Male's proposal and reviewed it with the Board. Todd Rulison asked if the IDA proceeds with having this testing work done but doesn't proceed right away with taking the house down, how long will the test results be valid. Jim Mraz stated he wasn't sure, but assumed that they would be valid for a long time. Bill Sullivan asked if the IDA proceeded with having this testing work, would it be committed to then proceed with demolishing the building? Jim Mraz stated, "No." Jim Mraz stated the intent would be to get the asbestos containing materials survey conducted to determine whether any asbestos materials may be in the building. If some are found, the IDA could then ask the County's Demolition Team to remove the asbestos in anticipation of having them demolishing the building. Having the County's Demolition Team remove the asbestos and do the demolition may be the least expensive option for the IDA. He stated the Demolition Team cannot take the building down without documentation that no asbestos materials exist in the building. Todd Rulison recommended that the IDA proceed with having the survey done and taking the building down.

Jim Mraz stated that the fee proposal from C.T. Male is just an estimate. He stated that the fee of \$675 is fixed and would be a lump sum fee. The estimate is for the \$850 laboratory fee. He stated C.T. Male won't know how many samples have to be tested until they get into the building. He stated this \$850 figure could go up or down depending upon the actual number of samples that they end up having to take to a lab for testing.

IDA ACTION:

MOTION: To authorize C.T. Male to proceed with having an asbestos containing materials survey done at the estimated cost of \$1,525 plus mileage.

MADE BY: Bill Sullivan

SECONDED: Len House

VOTE: Unanimous

V. CLOSE MEETING:

MOTION : To close the meeting.

MADE BY : Arlene Sitterly

SECONDED : Fran Reed

VOTE : Unanimous

TIME : 9:30 a.m.